



## State of Utah

GARY R. HERBERT

Governor

SPENCER J. COX

Lieutenant Governor

TODD E. KISER

Commissioner

# Insurance Department

## State of Utah Title & Escrow Commission Meeting Meeting Information

**Date:** **October 2, 2017**

**Time:** **9AM**

**Place:** East Building, Copper Room

### MEMBERS

#### COMMISSION MEMBERS

xChair, Alison McCoy (*Agency, Tooele County*)      xNancy Frandsen (*Insurer, Salt Lake County*)  
xVice Chair, David Moore (*Agency, Salt Lake County*)      xJames Swan (*Insurer, Salt Lake County*)  
Sylvia Andersen (*Public Member, Salt Lake County*)

#### DEPARTMENT STAFF

xTodd Kiser, *Ins. Commissioner*      Brett Barratt, *Deputy Comm.*      xPerri Babalis, *AG Counsel - TEC*  
xSuzette Green-Wright, *MC Dir.*      xRandy Overstreet, *Licensing Dir.*      Reed Stringham, *AG Counsel - UID*  
xAdam Martin, *Examiner*      xSteve Gooch, *PIO Recorder*

#### PUBLIC

Carol Yamamoto      Tim Krueger      Matt Ryden  
James Seaman      Adam Back      [PHONE] Joseph McPhie  
[PHONE] Jeff Wiener

### MINUTES — *Approved*

#### *General Session: (Open to the Public)*

- **Welcome** / Alison McCoy, Chair (9:00 AM)
- **Telephone Roll Call**
- **Adopt Minutes of Previous Meeting**
  - **Motion by Nancy to adopt minutes. Seconded by David. Motion passes 4-0.**
- **Reports**
  - Concur with Complaint & Enforcement Report / Suzette
    - There were a few cases opened in September. There were some that were opened and closed in the same month.
  - Concur with Licensee Report / Suzette
    - There were no agency lapses, renewals or reinstatements — that's the first time ever.
    - There were a few reinstated agent licenses and all of them are within 1 year. Suzette assumes it's people who tried a different job for a while and then came back to title. This is a short-month list because Suzette was out of town last week.
    - **Motion by David to concur with the Complaint & Enforcement and the Licensee reports. Seconded by James. Motion passes 4-0.**
  - Request for Dual Licensee Expedited Request: None
  - Request for Attorney Exemption: None
- **Administrative Proceedings Action** / Lisa Watts Baskin, ALJ
  - Stipulation and Order: None
  - Order to Show Cause: None
  - Informal Adjudicative Proceeding and Order: None
  - Notice of Formal Adjudicative Proceeding: None
- **Board Duties & Responsibilities** / Perri

- The duties of the Title & Escrow Commission are set forth in 31A-2-404(2).
  1. The TEC shall make rules related to the Insurance Code. The rules the TEC can make relate to rating standards and methods for a title licensee, licensing for a title licensee, continuing education, and standards of conduct for a title licensee. Any time the TEC makes a rule, the Insurance Commissioner must concur for it to be adopted.
  2. The TEC shall concur with the issuance of a license. This is handled as part of the monthly Licensee Report. If any commission member has concerns about an agent or agency that appears on the report, they should bring attention to it during the monthly TEC meeting. Perri notes that if there are specific concerns about an individual person, that's the time to go into a closed Executive Session.
  3. The TEC shall establish fees imposed on title licensees, with the concurrence of the Insurance Commissioner.
  4. The TEC shall, after consulting with the Insurance Commissioner, concur with assessments on a title insurer.
  5. The TEC shall approve a continuing education program. The TEC has delegated any CE approval to the Insurance Department; Michael Covington does this. Delegation makes the CE process quicker and easier.
  6. The TEC shall advise the Commissioner on the most critical matters affecting the title insurance industry.
  7. The TEC shall participate in the annual license testing evaluation conducted by the licensing test administrator.
  8. The TEC shall advise the Commissioner relating to the Insurance Commissioner's budget relating to title insurance. Commissioner Kiser says the only relevant thing that has come up in the past five years is an \$8,000 software expenditure. He says if there are any title-related expenditures the UID could make that the TEC thinks will benefit the industry, he would like to hear it. Suzette notes that the UID has approached the TEC for permission to use title funds to allow a department title employee to attend an out-of-state conference. This is usually done via an email to the chair.
  9. The TEC may make rules to establishing an examination for a license, with the concurrence of the commissioner. "With the concurrence of the commissioner" means the Insurance Commissioner has final say in the decision.
  10. The TEC may not make rules regarding adjudicative procedures.
- **New Business**
  - 2018 needs and goals of the Commission / David
    - David think it might be good to come up with some goals since we have added so many new commission members recently.
    - Alison gives some possible issues: a discussion regarding implementing preclicensing education; industry's role would be with regard to the REPC addendum; and a company back east that has done a Kickstarter to do title quicker. Alison thinks the commission needs to be aware any trends and be ready to discuss them.
    - David notes that the UID did away with preclicensing education because of budgetary issues with regulating educators. Ultimately it didn't matter where the information came from as long as people passed the test. He says Florida has an extensive preclicensing process, but it becomes an issue for the Department to regulate it and budget for it. He thinks the system Utah has in place is pretty good. People aren't passing the test on the first time, which is positive. We just need to stay on top of the testing. Alison notes that there's still industry concern about whether the test is testing the right stuff; maybe the TEC should focus on that. David notes that the tests are at least 6 months behind because of the nature of the process.
    - Goals for 2018:
      1. Make sure the testing is relevant.
      2. Find a way to work with the Real Estate Commission.

- David suggests meeting with the Real Estate Commission a few times a year to discuss joint needs. The TEC will need to contact the REC to make it happen.
- 3. Report back on ULTA meetings and work with them as a liaison.
  - Alison will plan to be at the next ULTA meeting.
  - David notes that not everyone is a member of the ULTA. The TEC should not take on their agenda when there are other attitudes in the industry. Nancy asks if everything should come from the UID. David says yes, the TEC works to get things done through the UID, not the ULTA.
- 4. Address consumer education and things that make the industry vulnerable.
  - James notes that wire fraud is a big issue, and the TEC may want to share info and whatnot. David suggests keeping resources and outside information on the TEC portion of the UID website. James says a lot of people being harmed are consumers, and the fraud happens before the money gets to title companies, so it's not covered by title insurance.
- Request for legislative changes for title and escrow / David
  - Now is the time to make changes if the industry wants something changed.
  - The UID isn't working on anything for the TEC at the moment. Nancy asks if the TEC will be told about any legislation ahead of time. Suzette says yes, if there's anything in the UID's bill, we would let the TEC know well in advance. However, not all bills come from the UID.
  - Alison asks if the DRE does a cleanup bill like the UID's, and would it affect the TEC. Commissioner Kiser says that any legislator can run any bill at any time. Not all legislators are transparent, unfortunately. Typically, when the UID does a bill, we try to keep it transparent and non-controversial. The UID's bill is for important cleanup issues, so we don't want anything controversial to hold it up or kill it. We don't always know what's in other bills until there's a public hearing. Suzette says sometimes we only find out what's in a bill when we get a request for a fiscal note, which requires a 24-hour turnaround.
- **Old Business**
  - Draft bulletin re: receipt and disbursement of earnest money / Adam
    - Brett wanted to let everyone know that he worked with the ULTA on the bulletin. The ULTA wanted to add wording regarding legislators, but the UID removed it because it was cumbersome and we didn't want to give legal advice.
    - Alison says she liked how the previous draft said the point of the bulletin was to remind people to have written escrow instructions. That was removed from the previous bulletin and the new version focuses mostly on fees. She suggests adding that back into the next draft. Nancy agrees, saying that was an important point and that she liked that it called for "detailed escrow instructions." Adam will suggest to Brett that we re-add that language.
    - James doesn't like the word "encouraged" in the sentence because it might not be strong enough. David likes the previous wording because of the prevalence of the issue. The rest of the draft is good, with the re-addition of the paragraph.
  - Update on REPC earnest money addendum / Alison
    - Alison talked to a couple of people about whether the addendum is approved, but is waiting to hear official word. The bottom line is that it sounds like the addendum hasn't been approved yet. The TEC still has some leeway to fix things that they don't like. Alison suggests watching their agendas so they can go comment at a public meeting.
    - James notes that when or if the addendum is approved, it doesn't replace the escrow instructions that are contemplated by the UID bulletin. It doesn't have a lot of protections for escrows or consumers. The addendum merely warns the consumer that there could be separate escrow instructions.
    - David says people need to recognize that escrows can't be a party to the REPC. Anything escrows do is done by a separate agreement.
    - James Seaman asks if the DRE's plan is to have this form approved by the state. Alison says yes.

- Update on commissioner terms / Steve
  - Randy Smart will most likely go before the Senate confirmation committee in November.
- **Hot Topics**
  - Nancy asks James Seaman about the four DRE addendums: should we be concerned about what those are? She suggests finding out what they deal with when Alison talks to the DRE.
- **Other Business**
  - Suzette says the assessment has gone out, and about ¼ has been collected already. Adam notes that the assessment is done in arrears and is for 2016 only.

*Executive Session* (None)

- **Adjourn** (9:47 AM)
  - Motion by David to adjourn. Seconded by James. Motion passes 4-0.
- **Next Meeting: November 13**, 2017 — Copper Room

**2017 Meeting Schedule in Copper Room**

<del>Jan-9</del>	<del>Feb-13 (SOB-B110)</del>	<del>Mar-13</del>	<del>Apr-3</del>	<del>May-8</del>	<del>Jun-12</del>
Jul-10	Aug-14	Sept-11	Oct-2	Nov-13	Dec-11